

Mar 06, 2018

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

TRACY E. MESECHER and
CHARICE A. MESECHER, husband
and wife,

Plaintiffs,

v.

HD HUDSON MANUFACTURING
COMPANY,

Defendant.

NO: 2:17-CV-299-RMP

ORDER OF DISMISSAL WITHOUT
PREJUDICE

A Notice of Removal was filed in the above-captioned cause on August 25, 2017, ECF No. 1. Pursuant to Fed. R. Civ. P. Rule 4(m), the Complaint must be served upon the defendant within ninety days of filing. Although the state court rules govern service of process before removal, the Federal Rules of Civil Procedure apply to procedural questions after removal. *See* Fed. R. Civ. P. 81(c). The ninety-day timeframe for service under federal law begins on the date that the action is removed to federal court. *See* Fed. R. Civ. P. 81(c)(1). There is nothing in the

1 record to indicate that service of the summons and complaint upon Defendant HD
2 Hudson Manufacturing Company has been accomplished.

3 On February 8, 2018, the Court entered an Order to Show Cause directing
4 Plaintiff, within ten days of the date of the order, to “. . . show cause, in a writing . .
5 . why all claims against Defendant HD Hudson Manufacturing Company should not
6 be dismissed without prejudice for failure to timely effect service.” Additionally,
7 Plaintiff was cautioned that failure to respond would result in the entry of an Order
8 of Dismissal without Prejudice. *See* ECF No. 14 at 2. Plaintiff has failed to respond
9 to the Order of the Court within the allotted time. Accordingly, **IT IS HEREBY**

10 **ORDERED:**

- 11 1. Plaintiff’s Complaint and all claims against Defendant HD Hudson are
12 dismissed without prejudice and without costs to any party.
13 2. All pending motions, if any, are **DENIED AS MOOT**.
14 3. All scheduled court hearings, if any, are **STRICKEN**.

15 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
16 Order, provide copies to counsel, and **close this case**.

17 **DATED** March 6, 2018.

18
19 *s/ Rosanna Malouf Peterson*
20 ROSANNA MALOUF PETERSON
21 United States District Judge